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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

18 Cr. 832

6 ISHI WONEY,

7 Defendant.

Plea

8 -----x  
9 New York, N.Y.  
10 May 9, 2019  
11 11:31 a.m.

12 Before:

13 HON. ONA T. WANG,

14 Magistrate Judge

15 APPEARANCES

16 GEOFFREY S. BERMAN  
17 United States Attorney for the  
18 Southern District of New York  
19 BY: DANIEL H. WOLF  
20 Assistant United States Attorney

21 FEDERAL DEFENDERS OF NEW YORK INC.  
22 Attorneys for Defendant  
23 BY: PHILIP WEINSTEIN, ESQ.

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1 (Case called)

2 THE DEPUTY CLERK: Counsel, please state your names  
3 for the record.4 MR. WOLF: Yes. Good morning, your Honor. Daniel  
5 Wolf on behalf of the government.6 MR. WEINSTEIN: Phil Weinstein, Federal Defenders,  
7 your Honor.8 THE COURT: Okay. Good morning. And good morning,  
9 Mr. Woney.

10 THE DEFENDANT: Good morning.

11 THE COURT: So I am Magistrate Judge Wang.

12 Mr. Woney, are you able to speak and understand  
13 English?

14 THE DEFENDANT: Yes.

15 THE COURT: I have before me a Consent to Proceed  
16 Before a United States Magistrate Judge on a Felony Plea  
17 Allocution that you have signed. What this form says is that  
18 knowing that you have the right to have this plea taken by a  
19 United States district judge, you're agreeing to have the plea  
20 taken by a United States magistrate judge. As a magistrate  
21 judge, I have the authority to take your plea, with your  
22 consent, and you will still be entitled to all of the same  
23 rights and protections as if you were before a district judge.  
24 Among other things, if you are found guilty, you will be  
25 sentenced by a district judge.

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1                   Did you sign this Consent to Proceed Before a United  
2 States Magistrate Judge voluntarily?

3                   THE DEFENDANT: Yes.

4                   THE COURT: Before you signed the form, did your  
5 lawyer explain it to you?

6                   THE DEFENDANT: Yes.

7                   THE COURT: Do you wish to proceed with your plea  
8 before a United States magistrate judge?

9                   THE DEFENDANT: Yes.

10                  THE COURT: All right. Your consent is accepted.

11                  The purpose of this proceeding is to make sure that  
12 you understand your rights, to decide whether you're pleading  
13 guilty of your own free will, and to make sure you're pleading  
14 guilty because you are guilty and not for some other reason.  
15 Do you understand that?

16                  THE DEFENDANT: Yes.

17                  THE COURT: If at any time you don't understand any of  
18 my questions or if you want to consult with your attorney, just  
19 say so, because it is important that you understand every  
20 question before you answer.

21                  Before I take your plea, I must ask you a series of  
22 questions, and I therefore need to place you under oath, so  
23 please raise your right hand.

24                  (Defendant sworn)

25                  THE COURT: All right. Mr. Woney, do you understand

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1 that any statements you make here today under oath may be used  
2 against you in a prosecution for perjury or for making false  
3 statements if you do not tell the truth?

4 THE DEFENDANT: Yes.

5 THE COURT: Please tell me your full name.

6 THE DEFENDANT: Ishi Colin Woney.

7 THE COURT: And what is your age?

8 THE DEFENDANT: Twenty-three.

9 THE COURT: Are you a citizen of the United States?

10 THE DEFENDANT: Yes.

11 THE COURT: And you are able to read and write in  
12 English?

13 THE DEFENDANT: Yes.

14 THE COURT: How far did you go in school?

15 THE DEFENDANT: Tenth grade.

16 THE COURT: And are you now or have you recently been  
17 under the care of a doctor or psychiatrist for any reason?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay.

20 THE DEFENDANT: Oh, no.

21 THE COURT: No? Okay. So you have not recently been  
22 under the care of a doctor or psychiatrist for any reason?

23 THE DEFENDANT: No.

24 THE COURT: Okay. Have you been treated recently for  
25 any mental illness or addiction to narcotic drugs of any kind?

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1 THE DEFENDANT: No.

2 THE COURT: As you sit here today, are you under the  
3 influence of any mind-altering drug or any alcoholic drink?

4 THE DEFENDANT: No.

5 THE COURT: Are you on any medication?

6 THE DEFENDANT: No.

7 THE COURT: Have you been able to understand  
8 everything that I've said to you so far?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you feel all right today?

11 THE DEFENDANT: Yes.

12 THE COURT: Have you seen a copy of the superseding  
13 indictment in this case?

14 THE DEFENDANT: Yes.

15 THE COURT: Have you read it?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand what it says that you  
18 did?

19 THE DEFENDANT: Yes.

20 THE COURT: Have you had a chance to discuss the  
21 charges and how you wish to plead with your attorney?

22 THE DEFENDANT: Yes.

23 THE COURT: Are you satisfied with your attorney's  
24 representation of you?

25 THE DEFENDANT: Yes.

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1                   THE COURT: Have you had a full opportunity to discuss  
2 this case with him?

3                   THE DEFENDANT: Yes.

4                   THE COURT: And has he told you the consequence of  
5 pleading guilty?

6                   THE DEFENDANT: Yes.

7                   THE COURT: And are you ready to enter a plea?

8                   THE DEFENDANT: Yes.

9                   THE COURT: All right. Count Two of the indictment  
10 charges you with sex trafficking of a minor, in violation of 18  
11 United States Code 1591(a) and (b)(2).

12                  Count Three of the indictment charges you with  
13 violating the Mann Act, in violation of 18 United States Code  
14 2421(a).

15                  Count Four of the indictment charges you with using an  
16 interstate facility to promote, manage, and carry on  
17 prostitution, in violation of 18 United States Code 1952(a)(3).

18                  And Count Five of the indictment charges you with  
19 being a felon in possession of ammunition shipped and  
20 transported in interstate commerce, in violation of 18 United  
21 States Code 922(g)(1).

22                  With respect to Count Two, charging you with sex  
23 trafficking of a minor, I want you to understand that the  
24 maximum penalty is a prison term of life, a term of supervised  
25 release of life, a fine of as much as \$250,000 or twice what

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1 was made by the criminal activity, or twice what someone other  
2 than yourself lost because of the criminal activity, a  
3 mandatory special assessment of a hundred dollars; and this  
4 count also carries a mandatory minimum imprisonment of ten  
5 years, a mandatory minimum term of supervised release of five  
6 years, and an additional special assessment of \$5,000.

7 With respect to Count Three charging you with  
8 violation of the Mann Act, I want you to understand that the  
9 maximum penalty is a prison term of ten years, a term of  
10 supervised release of life, a fine of as much as \$250,000 or  
11 twice what was made by the criminal activity or twice what  
12 someone other than yourself lost because of the criminal  
13 activity, a mandatory special assessment of a hundred dollars,  
14 a mandatory minimum term of supervised release of five years,  
15 and an additional special assessment of \$5,000.

16 With respect to Count Four, charging you with using an  
17 interstate facility to promote, manage, and carry on  
18 prostitution, I want you to understand that the maximum penalty  
19 is a prison term of five years, a term of supervised release of  
20 three years, a fine of as much as \$250,000 or twice what was  
21 made by the criminal activity or twice what was lost by anyone  
22 other than yourself because of the criminal activity, and a  
23 mandatory special assessment of a hundred dollars.

24 With respect to Count Five, charging you with being a  
25 felon in possession of ammunition shipped and transported in

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1       interstate commerce, I want you to understand that the maximum  
2       penalty is a prison term of ten years, a term of supervised  
3       release of three years, a fine of as much as \$250,000, again,  
4       or twice what was made by the criminal activity or twice what  
5       someone other than yourself lost because of the criminal  
6       activity, and a mandatory special assessment of a hundred  
7       dollars.

8               Additionally, I note that you are admitting to the  
9       forfeiture allegations in the plea agreement and that there is  
10      agreement as to a specific restitution that the Court will  
11      order.

12              And do you understand these maximum penalties that  
13      I've just described to you?

14              THE DEFENDANT: Yes.

15              THE COURT: And if the prison terms on these charges  
16      were to run consecutively, you would face a potential prison  
17      sentence of life in prison and a mandatory minimum of ten  
18      years. Do you understand this?

19              THE DEFENDANT: Yes.

20              THE COURT: Now how do you wish to plead, guilty or  
21      not guilty?

22              THE DEFENDANT: Guilty.

23              THE COURT: Do you also understand that if, as part of  
24      your sentence, you were placed on a term of supervised release  
25      and you then violated any of the conditions of that release,

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1 you could face an additional term of imprisonment?

2 THE DEFENDANT: Yes.

3 THE COURT: The district judge can revoke the term of  
4 release previously imposed and return you to prison without  
5 giving you any credit for time previously served on postrelease  
6 supervision.

7 If you are not a United States citizen, do you  
8 understand that your guilty plea may result in your being  
9 removed from the United States, denied citizenship, and denied  
10 admission to the United States in the future?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that you are bound by  
13 your guilty plea regardless of the immigration consequences of  
14 your plea and regardless of any advice you have received from  
15 your counsel or others regarding those consequences?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you had an opportunity to discuss  
18 immigration consequences with your attorney?

19 THE DEFENDANT: Yes.

20 THE COURT: I'm now going to explain certain  
21 constitutional rights that you have. These are rights that you  
22 will be giving up if you enter a guilty plea. Please listen  
23 carefully to what I'm about to say, and if you do not  
24 understand something, stop me, and your attorney and I will  
25 explain the issue more fully.

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1                   Do you understand that you have a right to plead not  
2 guilty or, having already pleaded not guilty, to persist in  
3 that plea, and that you have a right to a speedy and public  
4 jury trial if you wish?

5                   THE DEFENDANT: Yes.

6                   THE COURT: Do you understand that if you plead not  
7 guilty and go to trial, you would be presumed innocent and the  
8 burden would be upon the government to prove your guilt  
9 beyond a reasonable doubt?

10                  THE DEFENDANT: Yes.

11                  THE COURT: That means you would not have to prove you  
12 were innocent and you could not be convicted unless a jury of  
13 12 people unanimously agreed that you were guilty beyond a  
14 reasonable doubt.

15                  Do you understand that you would be entitled to be  
16 represented by an attorney at all stages, a trial and at every  
17 other stage of the proceedings, and if you could not afford to  
18 hire one, the court would provide an attorney to you for free?

19                  THE DEFENDANT: Yes.

20                  THE COURT: Do you understand that at such a trial,  
21 you would be entitled to confront and cross-examine any  
22 witnesses called by the government to testify against you, that  
23 you would be entitled to testify on your own behalf, that you  
24 could call witnesses and present evidence, and that the court  
25 would issue subpoenas at your request to compel witnesses to

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1 appear and testify in your defense even if they didn't want to  
2 come?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that at a trial, you  
5 would not be required to testify against yourself?

6 THE DEFENDANT: Yes.

7 THE COURT: And if you chose not to testify, that  
8 could not be used against you.

9 Do you understand that if you were convicted at a  
10 trial, you would have a right to appeal that verdict to a  
11 higher court?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that if you enter a  
14 guilty plea, you give up all of these rights, including your  
15 right to a trial, that you will not be able to withdraw this  
16 plea, and that the only remaining step in this case will be the  
17 sentencing?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that the decision as to  
20 the appropriate sentence in your case will be entirely up to  
21 the sentencing judge and that she will be limited only by what  
22 the law requires?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that even if you're  
25 surprised or disappointed by your sentence, you will still be

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1 bound by your guilty plea?

2 THE DEFENDANT: Yes.

3 THE COURT: And finally, if you do plead guilty,  
4 you're also giving up the right not to incriminate yourself,  
5 and I will ask you questions about what you did in order to  
6 satisfy myself that you are actually guilty. By pleading  
7 guilty, you will be admitting your factual as well as legal  
8 guilt. Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: Knowing all of this, do you still wish to  
11 plead guilty to Counts Two through Five of the indictment?

12 THE DEFENDANT: Yes.

13 THE COURT: Have any force or threats been used,  
14 either direct or indirect, to influence how you plead today?

15 THE DEFENDANT: No.

16 THE COURT: I have before me a letter dated May 6,  
17 2019, from the US Attorney to your attorney containing a plea  
18 agreement. Have you read this letter?

19 THE DEFENDANT: Yes.

20 THE COURT: And did you sign it on the last page?

21 THE DEFENDANT: Yes.

22 THE COURT: Before you signed it, did you discuss it  
23 with your attorney?

24 THE DEFENDANT: Yes.

25 THE COURT: Did he explain to you all of its terms and

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1 conditions?

2 THE DEFENDANT: Yes.

3 THE COURT: Apart from what is contained in this  
4 letter, have any promises been made to you in order to get you  
5 to plead guilty?

6 THE DEFENDANT: No.

7 THE COURT: In reviewing the plea agreement, I note  
8 that it contains an analysis of how part of our law of  
9 sentencing, known as the Sentencing Guidelines, may impact on  
10 any prison term in your case. Based on that analysis, the  
11 agreement states that the guidelines sentencing range can be  
12 expected to be from 120 to 135 months. Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that the sentencing  
15 judge is not bound by the calculation in the letter and that  
16 she will be free to do her own calculation, which may result in  
17 a guideline range that is different from the one in the letter?

18 (Defendant conferring with his counsel)

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that no matter what  
21 sentencing range the sentencing judge believes is called for by  
22 the guidelines, that range is just one of the many factors that  
23 the judge will consider in determining your sentence and that  
24 the judge has the discretion to give you a prison sentence  
25 below or above that range, anywhere up to a maximum sentence of

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1 imprisonment of life?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you also understand that under the  
4 terms of this plea agreement, if the judge sentences you to a  
5 prison term that is 135 months or less, you are giving up your  
6 right to appeal that sentence or to challenge it in any other  
7 way, such as through a writ of habeas corpus?

8 THE DEFENDANT: Yes.

9 THE COURT: Also, do you understand that the plea  
10 agreement says you cannot appeal any fine of \$300,000 or less  
11 and that you cannot appeal any lawful sentence of supervised  
12 release?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you also understand that under the  
15 terms of this plea agreement, you also agree not to appeal any  
16 special assessment of \$10,200 or less?

17 MR. WEINSTEIN: May I have a moment, your Honor.

18 THE COURT: Yes.

19 (Counsel conferring)

20 MR. WEINSTEIN: Your Honor, so I became aware that  
21 currently, in the Second Circuit, there is an issue on the  
22 \$5,000 special assessment, and the issue is whether it is per  
23 count or per case. And the circuits are split on this. And so  
24 with the government's consent, the appeal waiver for the  
25 special assessment would be anything more than \$5,000 less

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1 than -- subtracting \$5,000 from the special assessment, 10,200.  
2 So it would be 5,200. It's also not mandatory in any event  
3 because it's only for nonindigents.

4 THE COURT: I understand that.

5 I see that the original plea agreement that the  
6 parties have signed specifically states that the defendant  
7 agrees not to appeal any special assessment that is less than  
8 or equal to, so why don't I give you a couple minutes to rework  
9 that and initial it.

10 MR. WEINSTEIN: Okay. We'll initial it, if that's  
11 fine.

12 THE COURT: Yes.

13 So can you hand this down, please.

14 MR. WEINSTEIN: Okay. We've changed it on the  
15 original and everybody's initialed it.

16 THE COURT: Okay. Thank you.

17 Going back to this, in light of what Mr. Weinstein has  
18 put on the record, Mr. Woney, do you also understand that under  
19 the terms of the now revised and initialed plea agreement, you  
20 also agree not to appeal any special assessment that is less  
21 than or equal to \$5,200?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you also understand that in this  
24 letter, you are giving up your right to complain if the  
25 government withheld evidence from your attorney that would have

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1 been helpful to you?

2 THE DEFENDANT: Yes.

3 THE COURT: Is your plea voluntary -- that is, made of  
4 your own free will?

5 THE DEFENDANT: Yes.

6 THE COURT: Have any threats been made to influence  
7 how you plead today?

8 THE DEFENDANT: No.

9 THE COURT: Did you in fact commit the offenses that  
10 are charged in Counts Two through Five of the indictment?

11 THE DEFENDANT: Yes.

12 THE COURT: Before I ask you to tell me what you did,  
13 I will ask the government to summarize the elements of the  
14 offenses and, if they wish, to tell me any evidence that they  
15 would have offered at trial.

16 Now I understand in this case there are four counts,  
17 so do you want to proceed with the government summarizing the  
18 elements of all four and then the evidence they would have  
19 offered at trial and then have Mr. Woney allocute as to all  
20 four?

21 MR. WEINSTEIN: I think that would be most efficient.

22 MR. WOLF: I agree.

23 THE COURT: Okay. All right. Go ahead, Mr. Wolf.

24 MR. WOLF: Yes. With respect to Count Two, the  
25 government would be required to prove beyond a reasonable doubt

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1 four elements:

2                 First, in summary fashion, the defendant knowingly  
3 recruited, enticed, harbored, transported, provided, obtained,  
4 advertised, maintained, patronized, or solicited a person, or,  
5 in the alternative, knowingly benefited financially or by  
6 receiving anything of value from participating in a venture  
7 that so recruited, enticed, harbored, transported, provided,  
8 obtained, advertised, maintained, patronized, or solicited a  
9 person;

10                Second, the defendant knew or believed that the person  
11 would be caused to engage in a commercial sex act;

12                Third, the defendant knew the victim was less than 18  
13 years old, acted in reckless disregard of the victim's age, or  
14 had a reasonable opportunity to view the victim; and

15                Fourth, that the defendant's acts were in or affecting  
16 interstate or foreign commerce.

17                In addition, the government would be required to prove  
18 by preponderance of the evidence that venue is proper here in  
19 the Southern District of New York.

20                If required to go to trial on that count, the  
21 government would put forth testimony from law enforcement  
22 agents, victims, as well as documentary evidence, including  
23 text messages, as well as documents obtained from social media  
24 websites and similar entities, showing that in or about fall  
25 2018, the defendant recruited a minor, identified as Victim 3

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1 in the indictment, in the Bronx, New York, and then proceeded  
2 to provide to harbor, transport, and advertise that individual  
3 to engage in commercial sex acts, both in the Bronx, New York,  
4 and elsewhere.

5 With respect to Count Three, that crime has two  
6 elements that the government would be required to prove beyond  
7 a reasonable doubt:

8 The first is that the defendant knowingly transported  
9 any individual in interstate commerce in any territory or  
10 possession of the United States; and

11 Second, that the purpose of the travel was for the  
12 individual to engage in prostitution or any sexual activity for  
13 which any person can be charged with a criminal offense.

14 In addition, the government would be required to prove  
15 by preponderance of the evidence that venue is proper here in  
16 the Southern District of New York.

17 Here, the government would offer at any trial  
18 testimony and statements of witnesses, social media statements  
19 by the defendant himself, as well as records showing that in or  
20 about fall 2017, the defendant transported or caused to  
21 transport an individual, identified as Victim 1 in the  
22 superseding indictment, from New York City -- namely, the Bronx  
23 and Manhattan -- to New Jersey.

24 Count Four charges the defendant with violation of the  
25 Travel Act. That crime has three elements. Those three

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1 elements are:

2                 First, that the defendant -- and these three elements,  
3 as noted previously with the other two counts, the government  
4 would be required to prove beyond a reasonable doubt.

5                 First, that the defendant engaged in interstate  
6 travel, use of the mails, or the use of a facility of  
7 interstate commerce;

8                 Second, with the intent to promote, manage, establish,  
9 carry on, or facilitate the promotion, management,  
10 establishment, or carrying on of any unlawful activity -- here,  
11 the statute, for purposes of this count, defines unlawful  
12 activity to include prostitution; and

13                 Third, subsequent performance or attempted performance  
14 of the unlawful activity.

15                 In addition, the government would be required to  
16 establish, as with the other counts, that venue is proper by a  
17 preponderance of the evidence here in the Southern District of  
18 New York.

19                 On Count Four, the government would be able to rely on  
20 contemporaneous statements by the defendant and others as well  
21 as records showing that the defendant used the internet to  
22 promote prostitution here in the Bronx, which is in the  
23 Southern District of New York, by providing advertisements  
24 online, as well as using his phone to recruit and interact with  
25 victims. And those victims are identified in the indictment as

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1       Victim 1 and Victim 2.

2               Fifth and finally, with Count Five, which charges  
3       felon in possession of ammunition, there are three elements to  
4       that crime that the government would have to prove beyond a  
5       reasonable doubt:

6               First, the defendant knowingly possessed ammunition;

7               Second, that the defendant's possession of the  
8       ammunition was in or affecting commerce; and

9               Third, that prior to possession of that ammunition,  
10       the defendant was convicted in any court of a crime punishable  
11       by imprisonment for more than one year.

12               And then in addition, the government would need to  
13       establish that venue is proper here in the Southern District of  
14       New York by a preponderance of the evidence.

15               Here, the government would be able to rely on pictures  
16       and materials obtained from Mr. Woney's cellphone, the  
17       testimony and records from ATF employees, as well as  
18       certificates of disposition in the defendant's criminal history  
19       showing that he had been convicted of a felony prior to having  
20       possessed that ammunition.

21               With that, I have nothing further on the elements or  
22       evidence, unless the Court has any questions.

23               THE COURT: Okay. Mr. Woney, please tell me in your  
24       own words what you did that makes you guilty of the charges  
25       against you.

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1                   THE DEFENDANT: Between September 2018 and October 20,  
2 2018, I recruited a woman who was a couple months younger than  
3 18 years old to perform commercial sex acts in the Bronx and  
4 elsewhere.

5                   Secondly, in November 2017, I recruited and  
6 transported a woman from the Bronx to New Jersey to engage in  
7 commercial sex acts.

8                   Third, in 2017, I used the internet from the Bronx to  
9 advertise commercial sex acts by women I worked with.

10                  Fourth, in 2015, I was convicted of a felony robbery  
11 in New York. In September 2018, I possessed ammunition in the  
12 Bronx.

13                  Fifth, I knew that each of these acts were illegal.

14                  THE COURT: Okay. And I believe you just said this,  
15 but I ask this question anyway. You were reading from a  
16 statement, and that's entirely appropriate, and I'm sure that  
17 you and Mr. Weinstein wanted to make sure that the statements  
18 were exact and correct. I ask you again: You really did those  
19 things you just told me about?

20                  THE DEFENDANT: Yes.

21                  THE COURT: All right. Does the government represent  
22 that it has sufficient evidence to establish Mr. Woney's guilt  
23 beyond a reasonable doubt?

24                  MR. WOLF: Yes, the government so represents.

25                  And if the Court would indulge me just for a moment, I

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1 have just a brief question for defense counsel.

2 THE COURT: Okay.

3 (Counsel conferring)

4 MR. WOLF: Yes, your Honor. We're okay to proceed.

5 And yes, the government does believe it has sufficient evidence  
6 to prove beyond a reasonable doubt.

7 THE COURT: Okay. Mr. Weinstein, do you know of any  
8 defense that would prevail at trial or other reason why your  
9 client should not be permitted to plead guilty?

10 MR. WEINSTEIN: I do not.

11 THE COURT: Okay. Mr. Weinstein, do you have any  
12 doubt as to the defendant's competence to plead at this time?

13 MR. WEINSTEIN: I do not.

14 THE COURT: And I believe Mr. Woney allocuted to all  
15 of this, but he does admit to venue being proper in the  
16 Southern District of New York.

17 MR. WEINSTEIN: I'm sorry? He admits to?

18 THE COURT: I believe Mr. Woney allocuted to all of  
19 this, but I wanted to confirm that venue in the Southern  
20 District of New York has been satisfied --

21 MR. WEINSTEIN: Yes, in the Bronx.

22 THE COURT: -- on all counts. Okay.

23 And again, Mr. Woney, did you know that what you were  
24 doing was against the law?

25 THE DEFENDANT: Yes.

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1                   THE COURT: Any further questions either side wants me  
2 to ask?

3                   MR. WOLF: Nothing from the government, your Honor.

4                   MR. WEINSTEIN: No, your Honor.

5                   THE COURT: Okay. Is there any reason why I should  
6 not recommend that the district judge accept this plea?

7                   MR. WOLF: No reason from the government, your Honor.

8                   MR. WEINSTEIN: No, your Honor.

9                   THE COURT: Okay. This is the point in time -- oops.

10                  (Counsel conferring)

11                  MR. WOLF: Yes. For an abundance of caution, I will  
12 proffer that if the government were required to go to trial,  
13 the government would be able to -- I mentioned earlier with  
14 respect to Count Five that the government would rely on records  
15 and testimony from an ATF agent. And that testimony would  
16 establish that the ammunition that Mr. Woney possessed was  
17 manufactured outside the State of New York and then was  
18 possessed here in the State of New York and therefore traveled  
19 in interstate commerce.

20                  MR. WEINSTEIN: And we agree with that.

21                  THE COURT: Okay. Thank you.

22                  I am now at the point in the proceedings where,  
23 because I am not the sentencing judge and the sentencing judge  
24 will be relying only on the transcript for the plea allocution,  
25 whether there are any family or friends of Mr. Woney here in

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1 support of him.

2 MR. WEINSTEIN: His mom and dad are here.

3 THE COURT: Okay. His mother and father are here.

4 Thank you for being here.

5 All right. On the basis of Mr. Woney's responses to  
6 my questions and my observations of his demeanor, I find that  
7 he is fully competent to enter an informed plea at this time.  
8 I also conclude that he understands the nature of the charges  
9 and the consequences of his plea. And finally, I am satisfied  
10 that his plea is voluntary and that there is a factual basis  
11 for it. Accordingly, I recommend that the proffered plea to  
12 Counts Two through Five of the indictment be accepted.

13 I assume the government will order a copy of the  
14 transcript and will submit it to Judge Schofield, together with  
15 any additional paperwork, so that she may act on my  
16 recommendation.

17 A presentence investigation report is ordered.

18 Is there a sentencing date in this matter yet?

19 MR. WOLF: Not at present, and the government would  
20 ask for a control date of 90 days.

21 THE COURT: Okay. So 90 days puts us at around  
22 August 9th. August 9th, which is a Friday. Okay. Control  
23 date of August 9th.

24 All right. The prosecution case summary for purposes  
25 of the presentence report is to be delivered to the probation

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1 department no later than 14 days from today.

2 Mr. Weinstein, you should make yourself available to  
3 be interviewed by the probation department with your client no  
4 later than 14 days from today.

5 Anything further on this matter from either side?

6 MR. WOLF: Nothing from the government, your Honor.

7 MR. WEINSTEIN: No, your Honor.

8 THE COURT: Okay. Thank you. We're adjourned.

9 MR. WOLF: Thank you.

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